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USPTO GPAU 2141**FROM:** Jeffrey G. Toler
Reg. No.: 38,342**RE U.S. App. No.:** 10/700,337, filed November 3, 2003**Applicant(s):** Kenneth Roger Jones et al.**Atty Dkt No.:** 1033-MS1006**Title:** SYSTEM AND METHOD TO IDENTIFY CUSTOMER PREMISE
EQUIPMENT DEVICES**NO. OF PAGES (including Cover Sheet):** 19**MESSAGE:**

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Fee Transmittal (1 pg) (2 copies)
- ☒ Brief in Support of Appeal (15 pgs)

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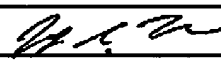
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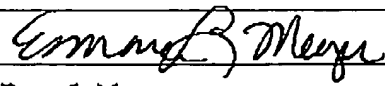
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	Filing Date	November 3, 2003	
	First Named Inventor	Kenneth Roger Jones et al.	
	Art Unit	2141	
	Examiner Name	NGUYEN, Quang N.	
Total Number of Pages in This Submission	19	Attorney Docket Number	1033-MS1006

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known Application Number 10/700,337 Filing Date November 3, 2003 First Named Inventor Kenneth Roger Jones Examiner Name NGUYEN, Quang N. Art Unit 2141 Attorney Docket No. 1033-MS1006	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT (\$) 500.00			

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

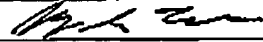
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4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

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SUBMITTED BY		
Signature 	Registration No. 38,342 (Attorney/Agent)	Telephone 512-327-5515
Name (Print/Type) Jeffrey G. Toler		Date 2-27-2006

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Kenneth Roger Jones et al.

**Title: SYSTEM AND METHOD TO IDENTIFY CUSTOMER PREMISE
EQUIPMENT DEVICES**

App. No.: 10/700,337

Filed: November 3, 2003

Examiner: NGUYEN, Quang N.

Group Art Unit: 2141

Atty. Dkt. No.: 1033-MS1006

Confirmation No.: 5176

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BRIEF IN SUPPORT OF APPEAL

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PATENT

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I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The Real Party in Interest in the present Appeal is **SBC Knowledge Ventures, L.P.**, the assignee, of patent application no. 10/700,337, as evidenced by the assignment set forth at Reel 014493, Frame 0881.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))**A. Total Number of Claims in Application**

There are 20 claims pending in the application (claims 1 and 3-21).

B. Status of All the Claims

Claims 1, 10, and 18 are independent claims. According to paragraphs 2-11 of the Office Action dated October 4, 2005, the Examiner states that Claims 1 and 3-21 stand rejected, and are hereby appealed.

C. Claims on Appeal

There are 20 claims on appeal (claims 1 and 3-21).

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

The claims hereby Appealed are based on the Amendment filed October 4, 2005. No amendment was offered or entered after the Final Office Action.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

The subject matter of Claim 1 can be summarized as follows:

A system includes a broadband access server and a communication path. The broadband access server is responsive to a remote digital subscriber line (DSL) customer premises equipment (CPE) device. The communication path is adapted to provide for data communications with the broadband access server. The broadband access server receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to the DSL CPE device.

Claim 1 finds support on at least page 5, paragraph 0028; page 6, paragraph 0030; page 6, paragraph 0032 through paragraph 0034; page 9, paragraph 0042; and pages 10-11, paragraph 0045 of the specification.

The subject matter of Claim 10 can be summarized as follows:

A communication system includes a host server and a customer service terminal. The host server has access to a remote digital subscriber line (DSL) customer premises equipment (CPE) device. The host server receives a device identifier associated with the DSL CPE device. The customer service terminal for use in connection with a communications network is coupled to the host server. The customer service terminal receives the device identifier and displays the device identifier to a user of the customer service terminal.

Claim 10 finds support on at least pages 9-10, paragraphs 0043-0044 of the specification.

The subject matter of Claim 18 can be summarized as follows:

A system includes a broadband access server responsive to a remote digital subscriber line (DSL) customer premises equipment (CPE) device. The broadband access server is adapted to receive a data packet during a discovery phase that includes an identifier, including a device identifier and a device hardware identifier corresponding to the DSL CPE device.

Claim 18 finds support on at least pages 5-6, paragraphs 0029-0030 and on pages 10-11, paragraph 0045 of the specification.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

A. Claims 1 and 3-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0053443 ("Owens") in view of U.S. Patent Publication No. 2002/0095299 ("Iwakata").

VII. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

Appellant respectfully appeals each of the rejections applied against all claims now pending on appeal.

A. CLAIMS 1, 3-9, AND 18-21 ARE ALLOWABLE OVER THE ASSERTED COMBINATION OF OWENS AND IWAKATA.

Independent Claims 1 and 18 are allowable over the asserted combination of Owens and Iwakata at pages 2-6, paragraphs 4-7 and 10 of the Final Office Action. Independent claim 1 recites a broadband access server that receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to a digital subscriber line (DSL) customer premises equipment (CPE) device. Independent claim 18 recites a broadband access server adapted to receive a data packet during a discovery phase that includes an identifier comprising a device identifier and a device hardware identifier corresponding to the DSL CPE device.

The Final Office Action acknowledges that U.S. Patent Publication No. 2003/0053443 ("Owens") does not teach that the device identifier includes a plurality of fields. *See Final Office Action*, p. 3. The Final Office Action asserts that U.S. Patent Publication No. 2002/0095299 ("Iwakata") teaches a customer information control system in which the electronic equipment automatically reads out the product information, including a product model number, a manufacturer's serial number, and the like. *See Final Office Action*, p. 3.

The Final Office Action asserts:

Therefore, it would have been obvious to one having ordinary skill in the art to combine the teachings of Owens and Iwakata to include a plurality of data fields in the device identifier for identifying a particular type of CPE equipment since such methods were conventionally employed in the art to allow the system to automatically obtain the product identification information such as the product model number, manufacturer's serial number and the like of the electronic equipment itself, thereby preventing a registration mistake and double registration owing to a user's mistake, and further preventing such a false registration that the product identification number is maliciously changed (Iwakata, paragraph [0111]).

See Final Office Action, pp. 3-4, paragraph 4.

Appellant respectfully disagrees. The asserted motivation to combine Owens and Iwakata lacks support in the references. Owens discloses a system and method of provisioning broadband services. *See Owens*, Title. Owens discloses that a Point-to-Point over Ethernet (PPPoE) session is established by authenticating a broadband modem for the PPPoE session and then configuring the digital subscriber line (DSL) modem. *See Owens*, Abstract. By contrast, Iwakata is directed to a product registration system where device information and customer information are sent to a host system for registration, and the product device information is used, for example, to check for existing data records in the system in order to prevent duplicate data entries. *See Iwakata*, paragraphs 0080 and 0111. However, Iwakata assumes that a network connection has already been established before the data is sent. *See Iwakata*, Abstract, p. 5, paragraph 0083. Thus, Owens and Iwakata are directed to different times within the PPPoE session, namely provisioning of broadband services (discovery) of Owens versus post-provisioning data communications via an established communication link, such as in Iwakata.

Additionally, Owens uses only a single data point (a MAC address) for provisioning of broadband services. *See Owens*, paragraph 0083 and 0084. By contrast, Iwakata sends multiple data fields after broadband services have been established. *See Iwakata*, paragraphs 0073-0075. Neither Owens nor Iwakata provide a suggestion or

motivation to modify the single data point of Owens to include the multiple data fields of Iwakata. Moreover, Owens and Iwakata fail to disclose or suggest a motivation for modifying Owens to utilize multiple data fields during a discovery phase for provisioning broadband services. Owens and Iwakata fail to provide a motivation to make the asserted combination. The only motivation for combining the broadband provisioning of Owens with the product registration system of Iwakata is provided by the present application. Accordingly, the asserted combination constitutes an impermissible hindsight reconstruction based on the present disclosure. Therefore, the asserted combination of Owens and Iwakata is improper and should be withdrawn.

Further, the system of Iwakata is technically inconsistent with the system of Owens. *See Reply to Non-Final Office Action*, filed September 20, 2005, ("NFOA Reply") p. 8. In particular, Owens is directed to provisioning broadband services. *See Owens*, Title, Abstract and paragraph 0002. In direct contrast, the system of Iwakata activates a control from the host machine to the client machine after confirmation of the connection. *See Iwakata*, p. 5, paragraph 0083. Iwakata discloses that the host machine uses the control to query the client machine. *See Iwakata*, p. 5, paragraphs 0083-0084; and *see also* Figure 3, blocks 301, 302 and sequence. Iwakata discloses that the product information is collected after the connection is established in block 301. *See Iwakata*, Figure 3, blocks 303-307. Thus, the product registration information in Iwakata is collected after the broadband services are established, e.g. after the discovery phase is complete. Consequently, the post-provisioning product registration system of Iwakata is technically inconsistent with the broadband provisioning system of Owens. Accordingly, the asserted combination is improper and should be withdrawn.

Even if the asserted combination of Owens and Iwakata were made, the asserted combination of Owens and Iwakata fails to disclose or suggest at least one element of each of the independent claims 1 and 18. In particular, if the combination were made, the modified system of Owens would utilize a MAC address to establish a broadband connection, and then the product information would be read out of the customer device by the server. The asserted combination of Owens and Iwakata fails to disclose or

suggest a broadband access server that receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to the DSL CPE device, as recited in independent claim 1. Additionally, the asserted combination of Iwakata and Owens also fails to disclose or suggest a broadband access server that is adapted to receive a data packet during a discovery phase that includes an identifier comprising a device identifier and a device hardware identifier corresponding to the DSL CPE device, as recited in claim 18.

Claims 2-9 depend from independent claim 1, and claims 19-21 depend from independent claim 18. The asserted combination of Iwakata and Owens fails to disclose or suggest at least one element of each of claims 1 and 18; therefore, the combination of Iwakata and Owens fails to disclose or suggest at least one element of each of the dependent claims 3-9 and 19-21, at least by virtue of their dependency from one of the claims 1 or 18.

B. CLAIMS 10-17 ARE ALLOWABLE OVER THE ASSERTED COMBINATION OF OWENS AND IWAKATA.

Neither Owens nor Iwakata disclose or suggest a customer service terminal for receiving and displaying the device identifier, as recited in claim 10.

Owens fails to disclose or suggest a customer service terminal. The Final Office Action asserts that Iwakata discloses a customer information input/display unit 13 that receives and displays the customer management information. *See Final Office Action*, pp. 5-6. However, the display unit 13 is part of the data processing unit 100 of the client machine 10. *See Iwakata*, Figures 1 and 7 (reference numeral 13) and p. 4, paragraph 0071. Thus, the display unit 13 of Iwakata is associated with the client machine 10, and not the host machine 20.

In direct contrast, claim 10 recites a customer service terminal for use in connection with a communications network coupled to the host server, the customer service terminal receiving the device identifier and displaying the device identifier to a user of the customer service terminal. (emphasis added). Iwakata fails to disclose or

suggest a customer service terminal receiving the device identifier and displaying the device identifier to a user of the customer service terminal, as recited by claim 10.

Additionally, the display unit 13 of Iwakata displays "*check results* of the stored information and the received information." *See Iwakata*, paragraph 0071. Iwakata states that the information input/display unit 13 receives the personal information (PI) necessary for a customer information control by a host machine 20 and displays the results of data check from the host machine 20 "including double registration error as for the same PC." *See Iwakata*, paragraph 0074. Iwakata also discloses sending and displaying a user registration number. *See Iwakata*, Figure 10, reference numerals 905 and 906, and paragraph 0108. The check results feature of Iwakata is a registration number or registration error. In direct contrast, claim 10 recites displaying the device identifier to a user of the customer service terminal. Therefore, the asserted combination of Owens and Iwakata fails to disclose or suggest a customer service terminal for receiving the device identifier and displaying the device identifier to a user of the customer service terminal, as recited in claim 10.

Additionally, as previously discussed, Owens and Iwakata are technically inconsistent. Owens is directed to provisioning broadband services (*See Owens*, Abstract and paragraph 0002), while Iwakata downloads personal or product information only after the connection is established (*See Iwakata*, p. 5, paragraph 0083-0084; and *see also* Figure 3, blocks 301, 302 and sequence). Thus, the download of Iwakata occurs only after the provisioning of broadband services of Owens. There is no motivation or suggestion in either reference to make the asserted combination, and the two references are technically inconsistent. Therefore, the asserted combination of Owens and Iwakata is improper and should be withdrawn.

Claims 11-17 depend from independent claim 10. The asserted combination of Owens and Iwakata fails to disclose or suggest at least one element of independent claim 10. Therefore, the combination of Owens and Iwakata fails to disclose or suggest at least one element of each of the dependent claims 11-17, at least by virtue of their dependency from allowable independent claim 10.

For at least the foregoing reasons, Appellant respectfully submits that the present application is in condition for allowance. Appellant respectfully requests reconsideration of the application and withdrawal of the rejections. Appellant respectfully requests an indication of allowability with respect to all of the pending claims 1 and 3-21.

VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

The text of each claim involved in the appeal is as follows:

1. (Previously Presented) A system comprising:
 - a broadband access server responsive to a remote digital subscriber line (DSL) customer premises equipment (CPE) device; and
 - a communication path to provide for data communications with the broadband access server;wherein the broadband access server receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to the DSL CPE device.
2. (Canceled).
3. (Original) The system of claim 2, wherein the plurality of data fields includes a device firmware field, a chipset field, and chipset code field.
4. (Original) The system of claim 3, wherein the plurality of fields identify a particular type of CPE equipment.
5. (Original) The system of claim 1, wherein the broadband access server receives a plurality of device identifiers associated with a plurality of different DSL CPE devices within a network.
6. (Original) The system of claim 1, wherein the communication path is a point to point over Ethernet communication path.
7. (Original) The system of claim 1, wherein the broadband access server is coupled to a database and wherein the device identifier is stored in the database.
8. (Original) The system of claim 1, wherein the data packet is a host-uniq tag portion of a point to point over Ethernet active discovery packet.

9. (Original) The system of claim 8, wherein the discovery packet is an initiation packet communicated from the DSL CPE to the broadband access server during a discovery stage process.
10. (Original) A communication system comprising:
- a host server having access to a remote digital subscriber line (DSL) customer premises equipment (CPE) device, the host server receiving a device identifier associated with the DSL CPE device; and
 - a customer service terminal for use in connection with a communications network coupled to the host server, the customer service terminal receiving the device identifier and displaying the device identifier to a user of the customer service terminal.
11. (Original) The communications system of claim 10, wherein the device identifier includes a firmware identifier and a chipset identifier associated with the DSL CPE device.
12. (Original) The communications system of claim 10, further comprising an operations station, the operations station receiving and storing the device identifier, the operations station coupled to a report generation element to display a report that includes the device identifier.
13. (Original) The communications system of claim 12, wherein the report includes a plurality of device identifiers associated with a plurality of DSL CPE devices within the communications network.
14. (Original) The communications system of claim 10, wherein the host server is a broadband remote access server coupled to the customer service terminal via an intermediate computer network.
15. (Original) The communications system of claim 10, wherein the device identifier is communicated as part of a host-uniq tag message in accordance with a discovery phase of a point-to-point over Ethernet initiation procedure.

16. (Original) The communications system of claim 15, wherein the host-uniq tag is a 24 bit binary number.
17. (Original) The communications system of claim 10, wherein the device identifier includes a firmware identifier, a chipset identifier, and a chipset firmware identifier.
18. (Previously Presented) A system comprising:
a broadband access server responsive to a remote digital subscriber line (DSL) customer premises equipment (CPE) device, the broadband access server adapted to receive a data packet during a discovery phase that includes an identifier comprising a device identifier and a device hardware identifier corresponding to the DSL CPE device.
19. (Previously Presented) The system of claim 18, wherein the hardware identifier comprises:
a firmware identifier and a chipset identifier.
20. (Previously Presented) The system of claim 18, further comprising:
a database adapted to store the identifier.
21. (Previously Presented) The system of claim 21, further comprising:
an operations system coupled to the database, the operations system adapted to retrieve the hardware identifier from the database and to determine suitability of the DSL CPE device for use with available updated technology.

IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

None.

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))


None.

XI. CONCLUSION

For at least the above reasons, all pending claims are allowable and a notice of allowance is courteously solicited. Please direct any questions or comments to the undersigned attorney at the address indicated. Appellant respectfully requests reconsideration and allowance of all claims, and requests that this patent application be passed to issue.

Respectfully submitted,

2-24-2006
Date


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